capabilities.[30] Thus, BPP proponents claim that regional IXCs would not be impaired by BPP because through the secondary IXC designation, they could portray a "full service" image to their subscribers.

In fact, the "secondary" IXC option only magnifies the competitive inequities of mandating BPP. As a practical matter, only the three nationwide IXCs could realistically serve as secondary carriers. Partnering with other regional IXCs would necessarily require designation of more than one secondary carrier, and LEC BPP routing would have to undertake a complex, if not impossible, task of ascertaining which secondary carrier is appropriate in a particular location.

Moreover, the three nationwide IXCs would have every incentive to advertise their broader 0+ origination capabilities to potential customers, assuming the Commission adopted a presubscription balloting or similar scheme for BPP implementation. Such marketing compromising the competitive abilities of regional IXCs would be even more certain if the Commission gave end users the choice of choosing their own secondary IXCs rather than allowing the primary IXC to do so.[31]

Given the competitive detriments of BPP for regional IXCs, they would be apt to continue to instruct their customers to use

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[30] See Notice at ¶ 23.

[31] Id. at ¶ 35. Indeed, one can easily imagine advertisements with slogans such as "why choose two carriers when one carrier (AT&T, MCI, Sprint) can do it all for you?"

access codes at all times, just as they do today. Thus, hundreds of smaller IXCs lacking nationwide origination capabilities for 0+ traffic and their customers would suffer, rather than benefit, from BPP.

VI. BPP WILL NULLIFY THE VALUE OF BILLION-DOLLAR INVESTMENTS IN CUSTOMER PREMISES AND PAY TELEPHONE EQUIPMENT AND ELIMINATE INCENTIVES TO DEVELOP ADVANCED CALL PROCESSING TECHNOLOGY

BPP implementation would also mark the return to a virtual LEC monopoly in the pay telephone market. BPP proponents have argued that, if it adopts BPP, the Commission must maintain competitive parity among all pay telephone providers and mandate BPP for both public (i.e., LEC) and private pay telephones.[32/] Otherwise, they claim that private pay telephone providers will garner a competitive advantage over LEC pay telephones by maintaining the ability to pay commissions to premises owners. These LECs fear that premises owners would quickly replace LEC pay telephones in order to continue to receive these commissions.[33/]

The LECs' concerns about competitive parity in the pay telephone market are entirely one-sided. In fact, BPP would destroy most competitive incentives for private pay telephone

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[32/] See, e.g., Bell Atlantic Petition for Rulemaking, RM-6723 (filed Apr. 13, 1989) at 7.

[33/] Bell Atlantic has particularly emphasized this issue. Indeed, on October 30, 1991, Bell Atlantic asked the Court overseeing the Modification of Final Judgment ("MFJ") to confirm that the equal access requirements of the MFJ do not mandate BPP implementation by the BOCs.

providers. Under BPP, IXCs would lose the incentive to pay commissions to premises owners and private pay telephone providers for the opportunity to carry 0+ traffic from those telephones. In turn, premises owners would lose the incentive to install pay telephones on their property, thereby reducing the overall number of pay telephones available to the calling public.[34]

Maintaining these incentives for private pay telephone providers and premises owners would clearly sustain a high level of pay telephone availability for the calling public. These arrangements often make such phones available at locations which the LECs would not otherwise serve, and also provide a beneficial competitive spur to the LECs' provision of pay telephone services. The Commission should not destroy these public interest benefits and incentives by mandating BPP.

Further, competition to provide service to private pay telephone providers and other aggregators has spurred the development and introduction of advanced customer premises equipment ("CPE") with intelligent, enhanced services and features often unmatched by LEC-deployed equipment. These advancements are driving the LECs to upgrade their facilities to

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[34] The Commission's proposal to consider adapting mechanisms for compensating private pay telephone providers for access code calls to cover all operator assisted calls is likely to be unworkable or incapable of implementation without substantial delay. Notice at ¶ 28. Indeed, the Commission's efforts to prescribe compensation just for access code calls is currently mired in requests for reconsideration and appellate litigation, with resulting delay.

better serve consumers.[35] BPP would remove incentives to create new and enhanced intelligent CPE features.[36] This result flies in the face of the progress in the CPE market which the emergence of telecommunications competition has brought to consumers, including the myriad of specialized CPE products now available to business and residential customers.

Moreover, the Commission should not overlook the advancements in intelligent PBX equipment used at locations such as hotels, hospitals and universities. Many such aggregators purchased and deployed equipment with enhanced routing and operator services features in full reliance on the existing presubscription environment. Particularly in markets which are highly sensitive to swings in the nation's economy, such as the hospitality industry, no aggregator can afford to make lightly its telecommunications equipment purchasing decisions. Part of the aggregator's purchasing decision includes an assessment of how the costs of the CPE purchase can be recovered and whether

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35/ For example, the LEC AABS systems described above are a direct response to the enhanced automated functions developed by competitive pay telephone providers.

36/ Competitive impetus for service enhancements has also occurred in the operator service industry, where such incentives would also likely disappear if BPP is mandated. For example, competitive providers have developed the capability for operator-assisted calls from a particular location to be routed to a particular bilingual operator station. While the presence of bilingual operators, initially spurred by competition, would likely outlive BPP, the ability to route particular calls to particular operators would perish under BPP, since the customer data bases of aggregator locations would no longer exist to enable such an enhanced service.

the aggregator can obtain a return on the investment. Commission payments from IXCs providing 0+ services on a presubscribed basis are fundamental to that analysis.

BPP would unduly nullify the telecommunications business planning of many such aggregators, stranding their investments in expensive equipment. Moreover, to the extent that aggregators have already begun the process of upgrading or replacing their equipment to permit full 10XXX unblocking, these expended resources would largely be wasted if the Commission mandates BPP. In short, numerous aggregators would suffer unrecoverable financial and logistical setbacks in their telecommunications services if the Commission orders BPP to be implemented.[37/]

No compelling reason supports halting further competition in the call aggregator CPE market, and stranding aggregator investments in such CPE, by implementing BPP. To do so would allow the LECs to determine unilaterally the course of all future aggregator CPE progress.

[37/] Indeed, the stranded investments in and decreased value of expensive aggregator CPE forced by mandatory BPP could raise Fifth Amendment issues regarding a governmental taking of aggregator property without just compensation. See, e.g., Lucas v. South Carolina Coastal Council, No. 91-453, 1992 W.L. 142517 (U.S. June 29, 1992)(Takings Clause discussion at Section III).

CONCLUSION

Joint Commenters urge the Commission not to mandate BPP. While BPP may be attractive in concept, its actual implementation would be anti-competitive and exceedingly costly. BPP would serve the business interests of LECs and a few large IXCs, without offering any material benefit to consumers. Indeed, consumer rates for operator services would increase if BPP is mandated, and the continued enhancement of service and expanded deployment of telephones would be stymied. Moreover, nationwide operator services rules have already been established by the Commission and render BPP superfluous and unnecessary. For all of the above reasons, the Commission should not adopt BPP.

Respectfully submitted,

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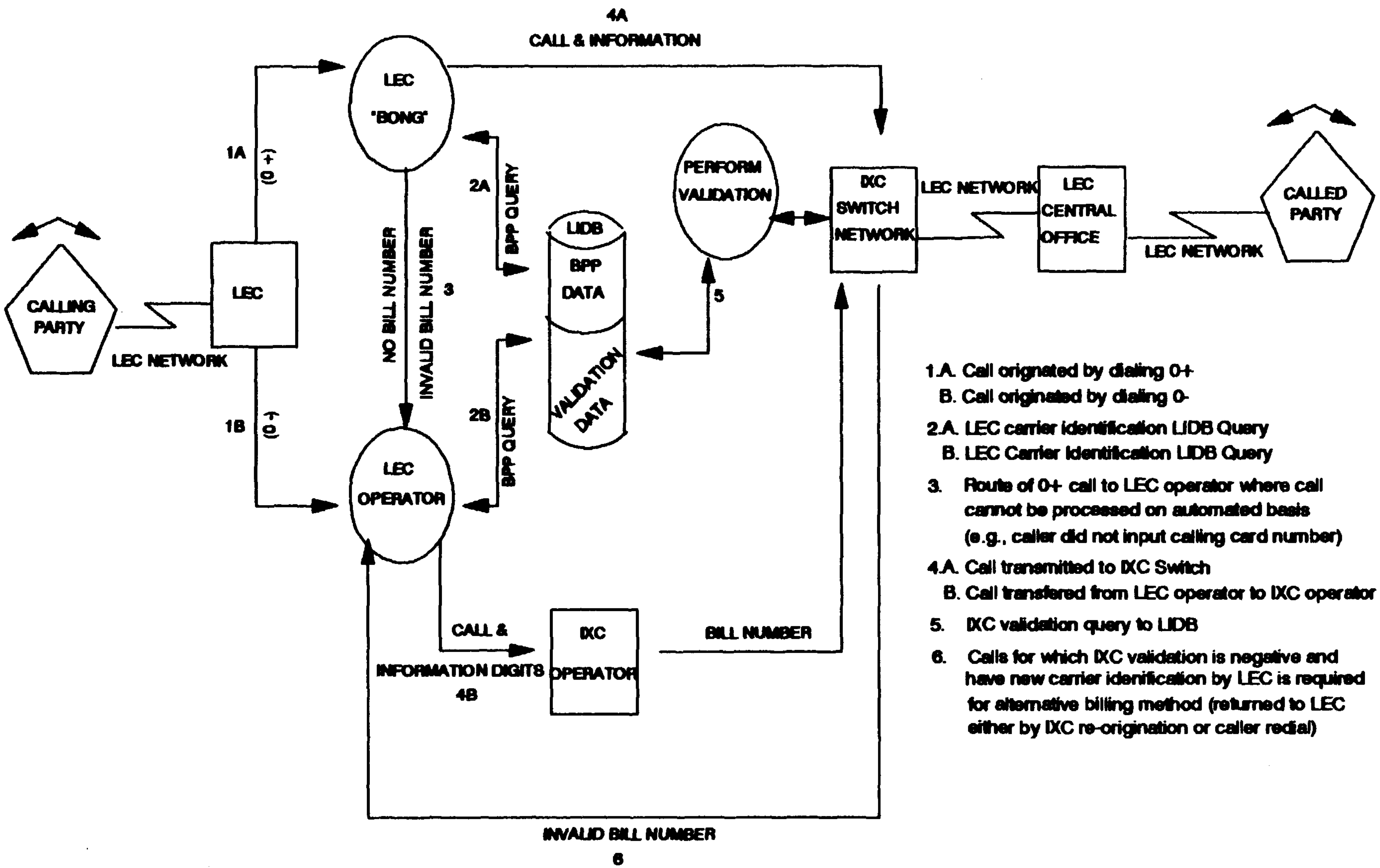
July 7, 1992

BILLED PARTY PREFERENCE



1.A. Call orignated by dialing 0+
   B. Call originated by dialing 0-

2.A. LEC carrier identification LIDB Query
   B. LEC Carrier Identification LIDB Query

3. Route of 0+ call to LEC operator where call cannot be processed on automated basis (e.g., caller did not input calling card number)

4.A. Call transmitted to IXC Switch
   B. Call transfered from LEC operator to IXC operator

5. IXC validation query to LIDB

6. Calls for which IXC validation is negative and have new carrier idenification by LEC is required for alternative billing method (returned to LEC either by IXC re-origination or caller redial)

Figure 1

PRE BILLED PARTY PREFERENCE - CALLING CARD CALL

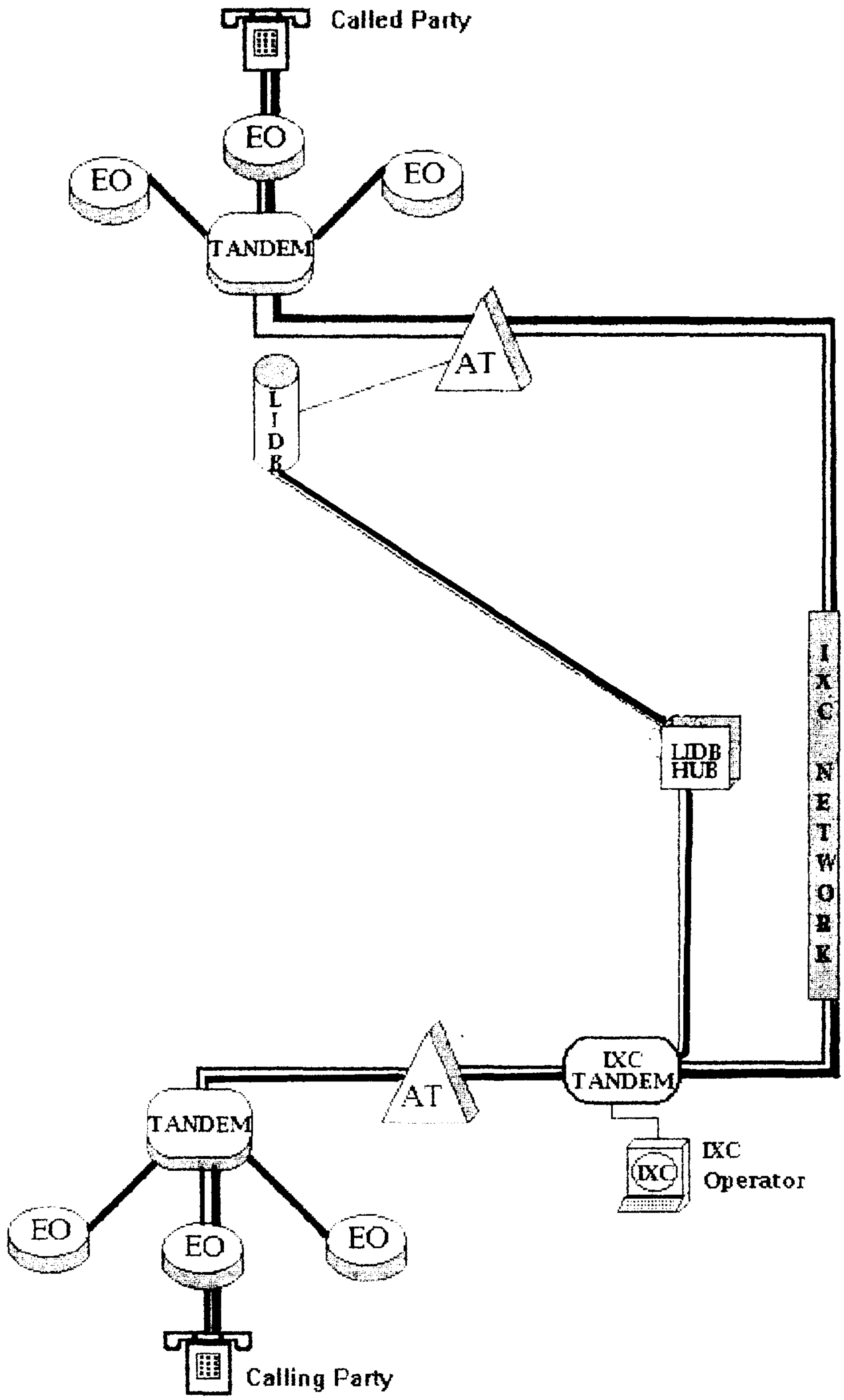


Figure 2

POST BILLED PARTY PREFERENCE - CALLING CARD CALL

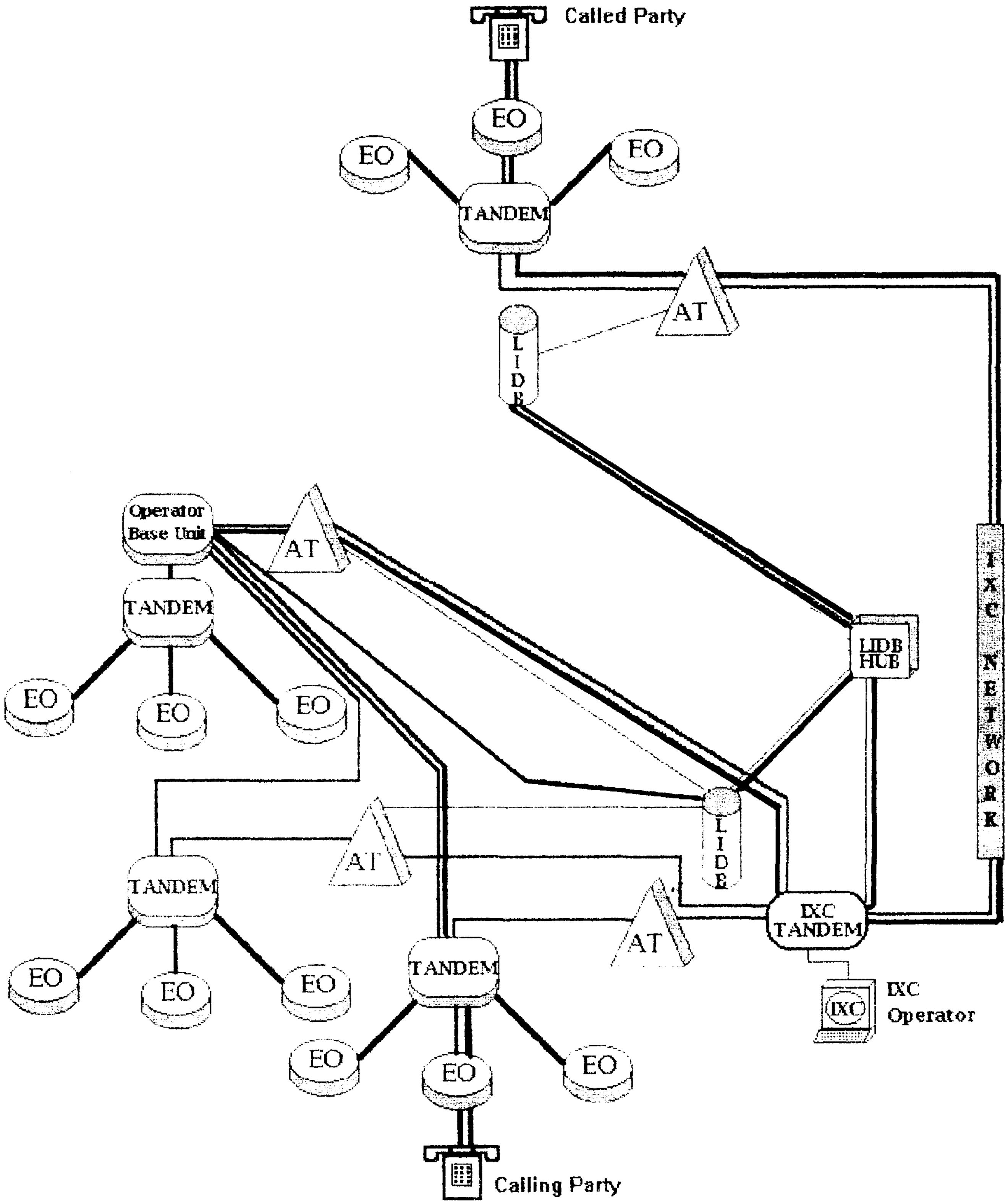


Figure 3

PRE BILLED PARTY PREFERENCE - COLLECT CALL

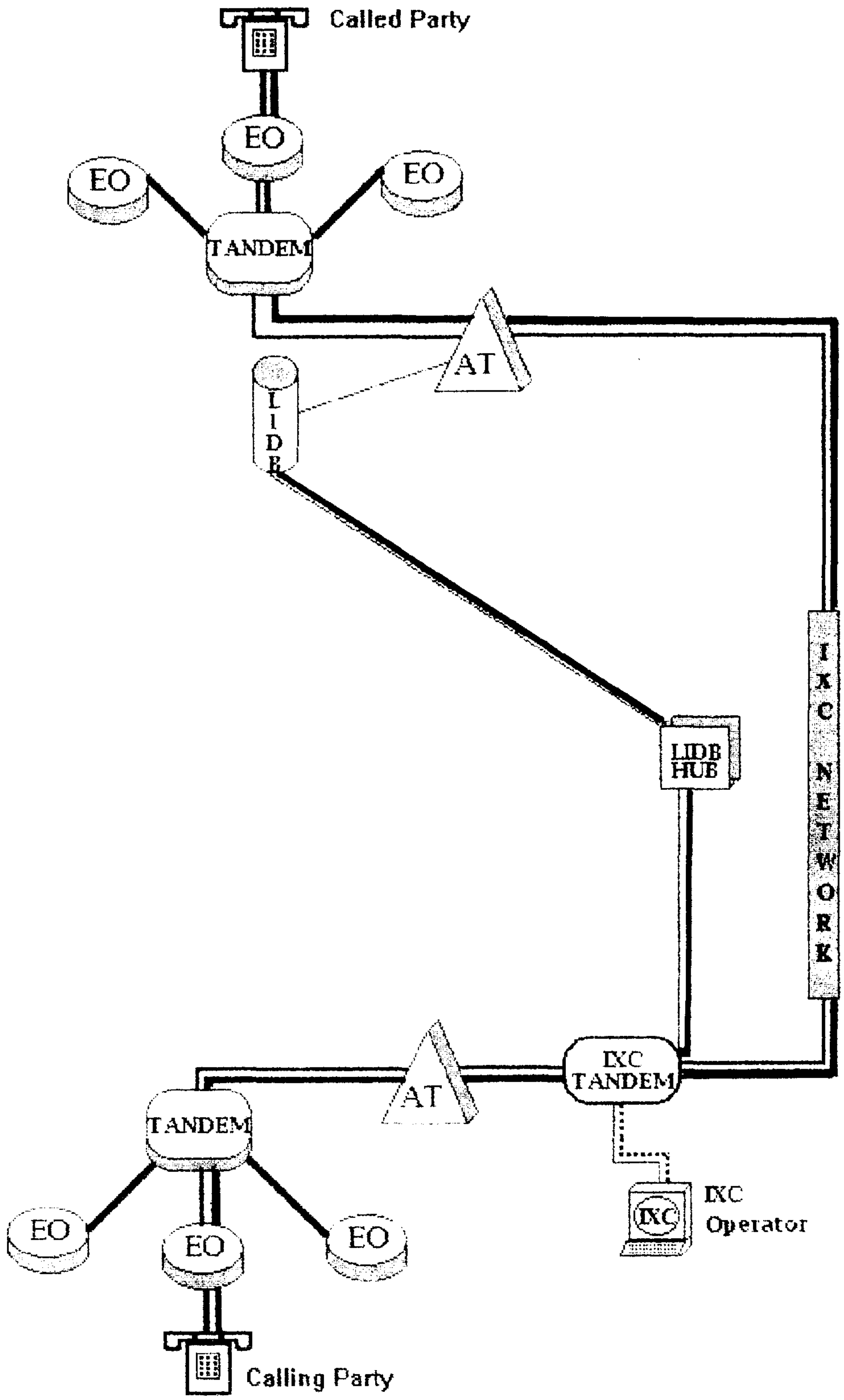


Figure 4

POST BILLED PARTY PREFERENCE - COLLECT CALL

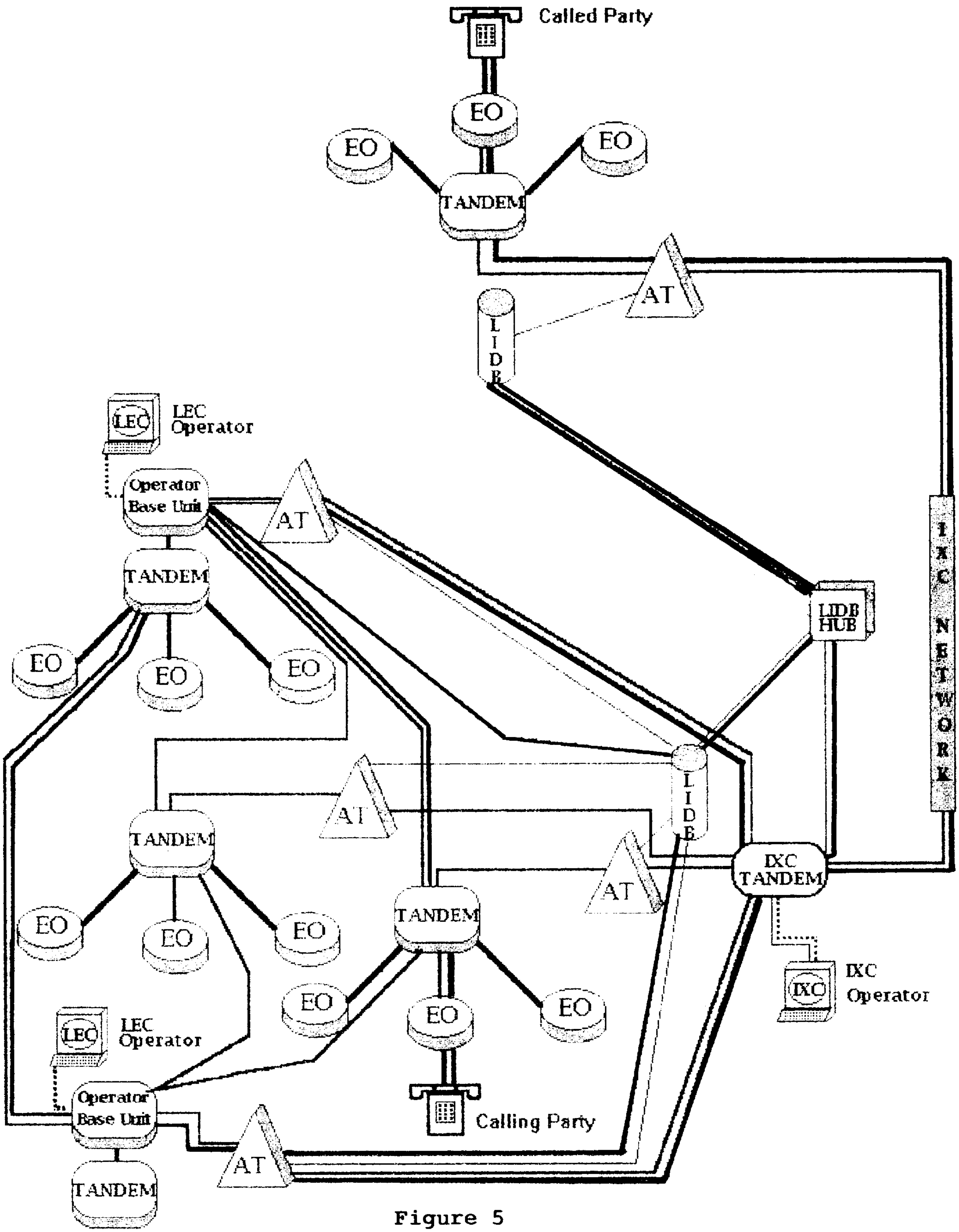


Figure 5